

COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION IN NURSING

Licensure Policy 00-01

Title	Determination of Good Moral Character Compliance for Initial Nurse Licensure by Examination or by Reciprocity, or for Advanced Practice Authorization by the Board
Purpose	The Board of Registration in Nursing (Board) establishes this policy to identify its criteria for determining whether an applicant for initial nurse licensure by examination or by reciprocity, and whether an applicant for authorization by the Board as an Advanced Practice Registered Nurse (APRN) meets the prerequisite for licensure or authorization that such applicant be “of good moral character” (GMC) as required by Massachusetts General Laws (G.L.) Chapter 112, sections 74 (RN licensure by examination), 74A (LPN licensure by examination), 76 (licensure by reciprocity), 80B (Advanced Practice authorization) and the Board’s regulations at 244 CMR 4.00, 8.02(1)(a), 8.03(1)(a), 8.04(1)(a), 8.04(2)(a), 8.04(3)(a), and 9.03. The Board will also use this policy as a guide for determinations of GMC of nurses licensed by the Board if and when such questions arise.
Date Adopted/Revised	September 8, 1999; effective January 1, 2000; revised January 9, 2002; clarified April 4, 2002, May 22, 2002, November 6, 2002; revised February 14, 2007
Application of Policy	The Board will evaluate each application for initial nurse licensure by examination and by reciprocity, and for APRN authorization under the policy governing the determination of GMC in effect on the date the Board receives the application.
GMC is Prerequisite for Licensure and APRN Authorization	DETERMINATION OF GMC COMPLIANCE Each applicant must be “of good moral character” for the Board to approve the applicant to write the licensure examination, to be licensed by reciprocity, or to be authorized as an APRN by the Board. The word “applicant” shall hereinafter be used to mean any applicant for initial Massachusetts licensure as well as for initial APRN authorization by the Board.
Attributes of GMC	The Board shall determine whether an applicant possesses the GMC essential for the safe and competent practice of nursing by evaluating the applicant’s demonstrated honesty, trustworthiness, integrity, accountability, reliability, ability to distinguish between right and wrong and to observe the difference between the two, avoidance of aggression to self and others, and avoidance of injustice and deceit, among other relevant attributes.

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Conduct Demonstrating Absence of GMC	The Board has determined that certain conduct demonstrates the absence of the GMC essential for safe and competent nursing practice. Such conduct includes hostile or destructive conduct to another or to self and conduct that demonstrates a disregard for the welfare, safety or rights of another or disregard for honesty, integrity or trustworthiness. Examples of such conduct include, but are not limited to, the conduct underlying certain criminal convictions and disciplinary actions taken by a licensure/certification body in another jurisdiction based on a criminal conviction.
Burden of Demonstrating GMC is on the Applicant	The burden of demonstrating that an applicant for initial licensure or APRN authorization is of “good moral character” is on the applicant. The applicant bears the burden of submitting to the Board for its evaluation documentation and other information upon which the Board may rely in determining whether the applicant possesses the requisite GMC. In evaluating an applicant’s GMC, the Board considers all available pertinent information as to the applicant’s present and past conduct
“Conviction” Defined	For the purpose of this Policy, “conviction” means the final judgment on a verdict or finding of guilty, a plea of guilty, a plea of <i>nolo contendere</i> (no contest), or a plea treated by the court as a guilty plea, regardless of the jurisdiction in which the conviction was entered.
All Criminal Cases and Disciplinary Actions Must be Closed	<p>The Board will not evaluate any application for compliance with the GMC requirement submitted by an applicant with any conviction(s) or with disciplinary action(s) imposed by a licensure/certification body until the applicant has provided documentation satisfactory to the Board that the applicant has met:</p> <ol style="list-style-type: none"> 1) all court-ordered requirements and that all criminal matters involving the applicant have been closed; and 2) all requirements imposed by a licensure/certification body in connection with disciplinary action.
Mandatory Permanent Exclusion	<p>CONDUCT WARRANTING MANDATORY <u>PERMANENT</u> EXCLUSION FROM LICENSURE AND APRN AUTHORIZATION</p> <p>The Board has determined that the conduct underlying certain felony convictions poses an unacceptable risk to the public health, safety or welfare or to the provision of safe and competent nursing care, or both. Such conduct includes, but is not limited to, any of the following:</p> <ol style="list-style-type: none"> 1) the conduct underlying the crimes listed on Attachment A; 2) the conduct underlying any violent crime against any person(s) that exhibits intentional or deliberate extreme disregard of human life; 3) trafficking in, or illegally manufacturing, any controlled substance; and 4) exploitation or criminal mistreatment of a vulnerable individual including, but not limited to, a minor, elder and/or disabled person.

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Mandatory Permanent Exclusion (continued)	The Board shall permanently exclude from licensure as a nurse in Massachusetts or APRN authorization, or both, an applicant who has engaged in such conduct as identified above and as evidenced by certified official records or other similarly reliable documentation.
Mandatory Temporary Exclusion	<p><u>CONDUCT WARRANTING MANDATORY TEMPORARY EXCLUSION FROM LICENSURE AND APRN AUTHORIZATION</u></p> <p>The Board has also determined that unless the <i>exception</i> to mandatory temporary exclusion set forth in the section below applies, an unreasonable risk to the public health, safety or welfare, or to the provision of safe and competent nursing care, or both, is posed where the applicant has engaged in any of the following conduct within the five (5) year period immediately preceding the date the applicant submits an application for licensure, APRN authorization, or a written request for determination of compliance with the GMC requirement:</p> <ol style="list-style-type: none"> 1) any criminal conviction that does not otherwise require mandatory permanent exclusion under this Policy; 2) knowingly falsifying, or knowingly attempting to falsify, any documentation or information submitted on an application for examination or for licensure or for APRN authorization, that is directly related to the qualifications for such examination or licensure, or authorization; or 3) cheating on the National Council Licensure Examination (NCLEX), or on any other licensure or certification examination. <p>The Board shall <i>temporarily</i> exclude from licensure or APRN authorization, for the duration set forth below, an applicant who has engaged in any of the conduct described above and as evidenced by certified official records or other similarly reliable documentation.</p>
Duration of the Mandatory Temporary Exclusion	<p>The period of such mandatory temporary exclusion shall be as follows:</p> <ol style="list-style-type: none"> 1) at least five (5) years from the date of the most recent conviction or date the conduct at issue last occurred whichever is later, and 2) at least one (1) year from the date of the applicant's successful completion of all court-ordered requirements where any such requirements have been imposed.
<i>Exception to the Mandatory Temporary Exclusion</i>	<p><u>EXCEPTION TO THE MANDATORY TEMPORARY EXCLUSION</u></p> <p>An applicant who falls under the Mandatory Temporary Exclusion section of this Policy as set forth above, due to his or her criminal conviction may nevertheless request that the Board evaluate his or her compliance with the GMC licensure requirement in accordance with the case by case evaluation process set forth in the section below, <i>provided that</i>, the applicant meets <i>all</i> of the following requirements:</p>

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<p>Exception to the Mandatory Temporary Exclusion (continued)</p>	<ol style="list-style-type: none"> 1) the applicant has submitted a written request for the Board's determination of his or her compliance with the GMC requirement, together with substantiating documentation satisfactory to the Board; 2) the applicant: <ol style="list-style-type: none"> a) during the five (5) years immediately preceding the date that the applicant submits an application for licensure or APRN authorization, has only one criminal conviction for a single misdemeanor offense or multiple criminal convictions for misdemeanor offenses that are <i>all</i> based on the same criminal incident or episode; b) was not sentenced to any period of incarceration, whether suspended or stayed; and c) has successfully completed all related court-ordered requirements, if any, including probation; 3) the applicant's criminal conduct, if it occurred outside Massachusetts, would constitute a misdemeanor if it had occurred in Massachusetts; 4) the crime(s) for which the applicant was convicted was victimless and nonviolent; <i>and</i> 5) the applicant has no open criminal case(s) against him or her. <p>If the Board finds that an applicant meets all of the above-referenced requirements for it to approve an <i>exception</i> to mandatory temporary exclusion, the applicant's GMC compliance will then be determined by the Board in accordance with the case by case evaluation process set forth in the section below.</p>
<p>Case by Case GMC Evaluation</p>	<p>CASE BY CASE EVALUATION PROCESS FOR DETERMINATION OF GMC COMPLIANCE</p> <p>In each case where an applicant is <i>not</i> required to be permanently or temporarily excluded from licensure or authorization under this Policy the Board will evaluate the applicant's compliance with the GMC requirement on a case by case basis in accordance with the process and factors enumerated as follows:</p> <p>The Board will evaluate any conduct of the applicant that demonstrates an absence of the necessary attributes of GMC as set forth above in this Policy to determine whether the conduct:</p> <ol style="list-style-type: none"> 1) poses a threat to the public health, safety or welfare; 2) is of significance to the provision of safe and competent nursing care; and 3) is characteristic of the applicant's conduct.¹

¹ Butters, C., ...Of Good Moral Character. Board of Registration in Nursing, 1990

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<p>Case by Case GMC Evaluation (continued)</p>	<p>In making its determination of an applicant's compliance with the GMC requirement, the Board will evaluate factors including, but not limited to:</p> <ol style="list-style-type: none"> 1) the nature and seriousness of all conduct at issue, including any criminal conviction(s) or disciplinary action(s) by a licensure/certification body; 2) the sufficiency of the applicant's sustained rehabilitation; 3) the applicant's age at the time all conduct at issue occurred; 4) the frequency of occurrence of all conduct at issue; 5) the recency of all conduct at issue; 6) any mitigating or aggravating circumstances related to the conduct; and 7) the applicant's acknowledgment of her or his accountability for her or his conduct and recognition of its significance to nursing licensure or APRN authorization, or both
<p>Determination of GMC Compliance and Eligibility</p>	<p>An applicant who the Board determines to be in compliance with the GMC requirement will be eligible for licensure or authorization upon the applicant's successful completion of all other licensure or APRN authorization requirements or both.</p> <p>An applicant who the Board determines is not in compliance with the GMC requirement will not be eligible for licensure or APRN authorization, and such licensure or authorization will be denied.</p>
<p>Notice of Denial</p>	<p>The Board will notify in writing each applicant whom the Board does <i>not</i> find eligible under this Policy of its decision to deny licensure or APRN authorization, the reason(s) for the denial, and the opportunity for review of the denial. As part of its notification, the Board, in its discretion, may also inform the applicant of the requirements, if any, that the applicant must satisfy before the applicant may reapply for licensure or authorization.</p>
<p>Review of Denial Based on Noncompliance with GMC Licensure Requirement</p>	<p>When licensure or authorization is denied under this Policy, the Board shall afford the applicant an opportunity for a hearing where the applicant alleges, and can reasonably substantiate, the existence of specific areas of factual dispute relevant to the issue of licensure or authorization under this Policy. If there are no areas of factual dispute, the Board may rely on the applicant's written submissions in rendering a final decision on review. Judicial review of a Board final decision to deny licensure or authorization may be sought as provided by G.L. c. 30A, § 14.</p>
<p>Complaint Opened Against RN License of APRN Applicant</p>	<p>As set forth above, an applicant for APRN authorization by the Board whom the Board determines is not in compliance with the GMC requirement will not be eligible for such authorization. In addition, the Board will open a complaint against the Registered Nurse license of the applicant based on noncompliance with the GMC requirement.</p>